APPELLANT PRO SE:

STAN GARUS
Bloomington, Indiana

IN THE
COURT OF APPEALS OF INDIANA

STAN GARUS,	)	
	)	
Appellant-Plaintiff,	)	
	)	
vs.	)	No. 53A01-0608-CV-339
	)	
STEVEN WRIGHT, MICHAEL SPIERING, JARED CRANE,	)	
	)	
Appellees-Defendants.	)	

APPEAL FROM THE MONROE SMALL CLAIMS COURT
The Honorable Steven Galvin, Judge
Cause No. 53C06-0510-SC-5175

February 14, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAKER, Judge

Pro se appellant-plaintiff Stan Garus, a Bloomington landlord, appeals from a small claims trial court judgment awarding him $4,690.50 in an action he brought against defendants Steven Wright, Michael Spiering, and Jared Crane (collectively, the defendants). Garus raises two issues on appeal, which we restate as: (1) whether the trial court erred by not accepting a proffered settlement agreement, and (2) whether the trial court erred by not awarding Garus $5,773, the full amount that he requested in his complaint. Finding no error, we affirm the judgment of the trial court.

FACTS

The defendants rented an apartment from Garus from March 2002 until August 2005. On October 31, 2005, Garus filed a complaint in small claims court against the defendants requesting $5,773 for unpaid rent and property damage, including the costs of carpet replacement and damage caused by cigarette smoke. A hearing was scheduled for December 6, 2005, but Garus failed to appear and the trial court dismissed the action. That same day, Garus filed a correspondence with the trial court explaining his failure to appear, and the trial court set aside its dismissal on February 3, 2006.

On February 6, 2006, Garus filed a motion for judgment based on a settlement that he had reached with the defendants. The trial court denied the motion for judgment on February 10, 2006. A bench trial was held on April 13, 2006, and on May 9, 2006, the trial court entered judgment for Garus in the amount of $4,690.50. On May 11, 2006, Garus filed a motion to reconsider, which the trial court denied on June 1, 2006. Garus now belatedly appeals.

DISCUSSION AND DECISION

Small claims actions are "informal, with the sole objective of dispensing speedy justice between the parties according to the rules of substantive law." Ind. Small Claims Rule 8(A). Judgments in small claims actions are "subject to review as prescribed by relevant Indiana rules and statutes." Ind. Small Claims Rule 11(A). Under Indiana Trial Rule 52(A), the clearly erroneous standard applies to appellate review of facts determined in a bench trial with due regard given to the opportunity of the trial court to assess witness credibility. Trinity Homes, LLC v. Fang, 848 N.E.2d 1065, 1067 (Ind. 2006). This deferential standard does not apply to the substantive rules of law, which are reviewed de novo. Lae v. Householder, 789 N.E.2d 481, 483 (Ind. 2003).

We note that the defendants have failed to file an appellate brief. When appellees have failed to submit a brief on appeal, we need not undertake the burden of developing an argument on their behalf. Rather, we will reverse the trial court's judgment if the appellant's brief presents a case of prima facie error. Trinity Homes, LLC v. Fang, 848 N.E.2d 1065, 1068 (Ind. 2006). Prima facie error in this context is defined as, "at first sight, on first appearance, or on the face of it." Id. Where an appellant is unable to meet this burden, we will affirm. Id.

I. Settlement

Garus argues that "the trial court failed to acknowledge the fact that the defendants admitted guilt and offered [a] settlement of the full claim of $5773." Appellant's Br. p. 8. Garus directs us to Small Claims Rule 7, which provides:

> All settlements shall be in writing and signed by the plaintiff and defendant. The settlement shall be filed with the clerk and upon approval of the court it shall be entered in the small claims judgment docket and shall have the same effect as a judgment of the court.

While Garus argues that the trial court "ignored" Small Claims Rule 7 by not approving the settlement and entering it as judgment, appellant's br. p. 8, the Rule explicitly provides that the settlement will be entered as judgment "upon approval of the court . . . ." S.C.R. 7 (emphasis added). The Rule does not imply that the trial court must approve every proffered settlement, and the Rule's plain language does not lend itself to that interpretation. Furthermore, Garus's interpretation would eliminate any discretion by the trial court in cases where a settlement is offered—a result that the drafters could not have intended.

Here, the trial court denied Garus's motion for judgment on February 10, 2006, and held a bench trial on April 13, 2006. Appellant's App. p. 5. The trial court ultimately ruled in favor of Garus and awarded him $4,690.50. Aside from the abovementioned argument, Garus does not present further evidence as to how the trial court erred when it denied his motion for judgment. Therefore, Garus has not sustained his burden and his argument must fail.

II. Award Amount

Garus also argues that the trial court erred by awarding him $1,082.50 less than he requested. Specifically, Garus argues that the trial court erred when it "refused to acknowledge two relevant cases . . ." that he cited in the brief supporting his complaint. Appellee's Br. p. 8 (referring to his citation of Greasel v. Troy, 690 N.E.2d 298 (Ind. Ct. App. 1997), and Miller v. Geels, 643 N.E.2d 922 (Ind. Ct. App. 1994)).

For cases proceeding in small claims court, the formal entry of special findings is "contrary to the policy announced in Small Claims Rules 8 and 11," which provide that small claims trials are informal and require only that the judgments "shall be reduced to writing." Bennett v. Broderick, 858 N.E.2d 1044, 1048 (Ind. Ct. App. 2006) (citing Bowman v. Kitchel, 644 N.E.2d 878, 879 (Ind. 1995)). Here, the trial court did not make special findings when it entered judgment in favor of Garus for $4,690.50, but it did reduce its judgment to writing. Appellant's App. p. 13. Because the trial court did not make special findings, Garus's argument that the trial court erred by not considering Greasel and Miller must fail because we cannot conclude that the trial court did not consider these cases when it reached its decision.

Furthermore, the holdings in Greasel and Miller do not aid Garus's argument. Garus highlights one sentence from the Greasel facts to support his contention that he was entitled to the full replacement value of the carpet. Appellant's App. p. 12 (citing Greasel, 690 N.E.2d at 302). However, that sentence merely notes that the landlord in the case assessed damages against a tenant for damaged carpet. Garus's cite to Miller is along similar lines and is also unpersuasive. The language that he cites from Miller merely mentions that the landlord's action "included expenses he incurred for . . . replacement of the bathroom carpet." 643 N.E.2d at 927. Even in a light most favorable to Garus, the language he cites from Greasel and Miller merely supports his choice to include the replacement cost of the damaged carpet in his claim against the defendants.

Garus presents no further argument to support his contention that the trial court's $4,690.50 award was erroneous. Therefore, his argument must fail.

The judgment of the trial court is affirmed.

DARDEN, J., and ROBB, J., concur.